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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,451	10/16/2003	Richard J. Ernst	14303	8743

7590 10/03/2005

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EXAMINER

EPPS, TODD MICHAEL

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*MC*

## Office Action Summary

Application No.

10/687,451

Applicant(s)

ERNST ET AL.

Examiner

Todd M. Epps

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,8,12,14,15,23-26 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/20/2004</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This is the first Office Action for serial number 10/687,451, Rod Hanger For Securing A Rod To A Substrate, filed on October 16, 2003.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 8, 12, 14-15, 23-26, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,758,465 to Logue in view of U.S. Patent No. 4,543,763 to Ernst et al. (Ernst), and further in view of U.S. Patent No. 6,205,730 to Hasan et al. (Hasan).

Logue '465 discloses a rod hanger (fig. 5) comprising a generally planar mounting portion (24) defining a perimeter edge, and having a hole (52) along extending between a top surface (40) and a bottom surface (44) with the hole extending therebetween, a generally planar rod receiving portion (34) with a top surface (42), a bottom surface (46) and a hole (60) that includes a lip formation (64) disposed thereabout, and a connecting element (36), wherein the planes of the mounting and rod receiving portions are generally parallel, wherein rod receiving portion configured for threadably receiving the rod, wherein the rod hanger defines a unitary body with generally uniform thickness, wherein the hole of the mounting portion is coincident

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along the plane, has a radius and defines a circumference of 360 degrees, wherein the mounting portion has four corners.

However, Logue '465 fails to specifically teach at least four anti-rotation elements on generally planar top surface of the mounting portion plane uniformly spaced from the hole, and wherein four anti-rotation members are configured for penetrating the substrate. Nevertheless, Ernst '763 teaches a mounting portion (fig. 4, 6) with a central hole and four anti-rotation elements (22) disposed about the hole and spaced apart from each other by about 90 degrees along the circumference of the hole and dispose proximate to each of the corners of the mounting portion, and wherein four anti-rotation members are configured for penetrating the substrate (fig. 1). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hanger of Logue '465 with four anti-rotation elements disposed about the hole and spaced apart from each other by about 90 degrees along the circumference of the hole and dispose proximate to each of the corners of the mounting portion as in Ernst '763 so as to provide for superior rotation prevention means.

Regarding claims 14-15, Logue'465 in view of Ernst '763 disclose the previous invention failing to specifically teach four anti-rotation elements have a generally hemisphered shape. However, Hasan '730 teaches a mounting portion/bracket (fig. 1,3) that mounts against a surface including a central hole (26) along with two hemispherical anti-rotation elements (42) on the top surface of the mounting portion plate uniformly spaced along the plane in a radial direction from the hole. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention

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was made to have included rod hanger of Logue '465 in view of Ernst '763 so as to duplicate the two hemispherical anti-rotation elements of Hasan '730 so as to provide for a more stable hanger by preventing rotation or twisting of the mounting portion during mounting of the fastener through the hole and into a mounting surface. Further regarding claim 15, although the anti-rotation elements of Hasan '730 might not be interpreted as having the shape of a generally truncated cone, it would have been obvious to make the anti-rotation elements of any of a number of shapes, so long as they continue to provide the anti-rotation function without puncturing the mounting surface.

### ***Response to Arguments***

Applicant's arguments filed August 8, 2005 have been fully considered but they are not persuasive.

Nevertheless, Ernst '763 teaches a mounting portion (fig. 4, 6) with a central hole and **four** anti-rotation elements (22) disposed about the hole and spaced apart from each other by about 90 degrees along the circumference of the hole and dispose proximate to each of the corners of the mounting portion, and wherein four anti-rotation members are configured for penetrating the substrate (fig. 1). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hanger of Logue '465 with four anti-rotation elements disposed about the hole and spaced apart from each other by about 90 degrees along the

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circumference of the hole and dispose proximate to each of the corners of the mounting portion as in Ernst '763 so as to provide for superior rotation prevention means.

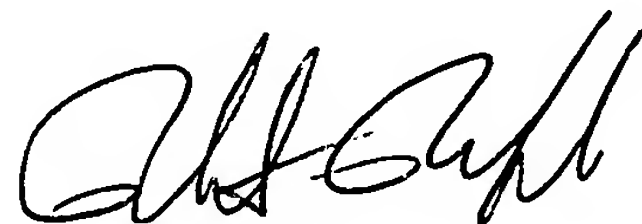
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd M. Epps  
Patent Examiner  
Art Unit 3632  
September 22, 2005

 9/29/05  
**ROBERT P. OLSZEWSKI**  
**SENIOR PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**